

FILED
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

2005 FEB -7 A 9:06

ANTHONY BAYAD,

Plaintiff,

v.

JOHN CHAMBERS, *et al.*,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO. 04-104468-GAO

**MOTION OF DEFENDANTS JOHN CHAMBERS, ANTHONY
SAVASTANO AND CARL WIESE FOR PROTECTIVE ORDER**

Pursuant to Fed. R. Civ. P. 26(c), defendants John Chambers, Anthony Savastano and Carl Wiese (the “Cisco Defendants”) move the Court for a protective order prohibiting plaintiff Anthony Bayad (“Plaintiff” or “Bayad”) from directly communicating with the Cisco Defendants or any other Cisco employees, and directing him to communicate with outside counsel only in writing. In support of this motion, the Cisco Defendants state the following:

1. In the past, after repeated and harassing telephone calls by Bayad to the Cisco Defendants and other Cisco employees, Bayad agreed with counsel for the Cisco Defendants that he would not contact the Cisco Defendants or anyone else at Cisco directly, but would direct his communications to outside counsel only.

2. Nonetheless, Plaintiff thereafter continued to make telephone calls to the Cisco Defendants and to other Cisco employees. The calls persisted notwithstanding renewed requests by counsel that Plaintiff stop and notwithstanding Plaintiff’s own renewed commitments to cease making such calls.

3. Through the date of this motion, Plaintiff continues to make frequent telephone calls to Cisco, principally to Cisco's General Counsel, Mark Chandler. Bayad leaves long, rambling, emotional, and sometimes threatening voicemails.

4. Bayad's telephone calls and voicemail messages to the Cisco Defendants and other Cisco employees are harassing, upsetting, and burdensome. A binder of informal transcriptions of some of the voicemails left by plaintiff for the Cisco Defendants and other Cisco employees (Binder A) is submitted herewith, see for example Tabs 8 and 20.

5. Plaintiff also makes multiple telephone calls almost every day to outside counsel, including the undersigned and DLA Piper attorneys Robert Mathias and Robin Tarr. He fills their voicemail machines with rambling, often irrational, emotional and often threatening voicemails. A separate binder of informal transcriptions of examples of these voicemails left for outside counsel (Binder B) is also submitted herewith, see for example Tabs 17, 18 and 27. On occasions when Bayad speaks directly to outside counsel, those conversations are lengthy and difficult.

6. Recordings of some of the voicemails left by Plaintiff are available for review by the Court at the February 7, 2005 status conference in this action.

7. Rule 26(c) of the Federal Rules of Civil Procedure, entitled "Protective Orders," empowers the Court "[u]pon a showing of 'good cause' by the movant to . . . make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Ameristar Jet Charter v. Signal Composites, Inc., 244 F.3d 189, 192 (1st Cir. 2001) (quoting Fed. R. Civ. P. 26(c)). Bayad's pro se status does not excuse his conduct. See, e.g., Eagle Eye Fishing Corp. v. United States Dep't v. United States Dep't of

Commerce, 20 F.3d 503, 506 (1st Cir. 1994) (stating that pro se litigants are not excused from compliance with procedural rules).

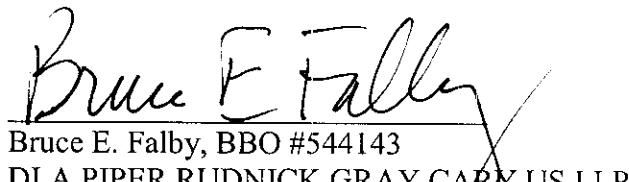
8. Plaintiff's constant calls and voicemails are annoying, oppressive and burdensome. They serve no legitimate purpose and are made for the sole purpose of harassing and burdening the Cisco Defendants, their fellow Cisco employees, and their counsel. Under Rule 26(c), there is good cause to enter a protective order to prevent the calls and voicemails from continuing.

WHEREFORE, the Cisco Defendants respectfully request that the Court enter a protective order prohibiting Plaintiff from directly communicating with the Cisco Defendants or any other Cisco employees, and requiring Plaintiff to communicate with outside counsel only in writing.

Respectfully submitted,

JOHN CHAMBERS, ANTHONY SAVASTANO,
and CARL WIESE,

By their attorneys,


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